

**U.S. District Court**  
**United States District Court – District of New Mexico (Albuquerque)**  
**CIVIL DOCKET FOR CASE #: 1:20-cv-00783-MIS-KRS**

Wilkinson v. Maese et al  
Assigned to: District Judge Margaret I. Strickland  
Referred to: Magistrate Judge Kevin R. Sweazea  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/03/2020  
Jury Demand: Defendant  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Jonathan Wilkinson**

represented by **Paul Gordon**  
Paul Gordon PLLC  
Post Office Box 460395  
Glendale, CO 80246  
720-505-0536  
Email: paul@gordon-mediation.com  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Justin Maese**  
*TERMINATED: 11/29/2021*

represented by **Michael Dickman**  
Law Office of Michael Dickman  
PO Box 549  
Santa Fe, NM 87504  
505-989-9360  
Fax: 505-992-8170  
Email: mikedickman@yahoo.com  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Walter Chappas**  
*TERMINATED: 01/27/2022*

represented by **Ronald J. Childress**  
Childress Law Firm  
8500 Menaul Blvd NE Ste A-225  
Albuquerque, NM 87112  
505-883-8555  
Fax: 505-883-9374  
Email: ron@childresslawfirm.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Urvashi Parkhani**  
Childress Law Firm  
8500 Menaul Blvd Ste A-225  
Albuquerque, NM 87112  
505-883-8555  
Fax: 505-883-9374  
Email: urvashi@childresslawfirm.com  
*ATTORNEY TO BE NOTICED*

**Defendant****Keith Tate**

TERMINATED: 12/16/2021

doing business as

Griffin Transport

TERMINATED: 12/16/2021

**Defendant****D & M Energy Associates, LLC**

doing business as

D &amp; M Energy

doing business as

D&amp;M Energy LLC

represented by **Josh A. Harris**

YLAW, P.C.

4908 Alameda Blvd. NE

Suite 300

Albuquerque, NM 87113

505-266-3995

Fax: 505-268-6694

Email: jharris@ylawfirm.com

**ATTORNEY TO BE NOTICED****Defendant****Environmental Services**

TERMINATED: 12/16/2021

Date Filed	#	Docket Text
08/03/2020	<u>1</u>	COMPLAINT <i>and Jury Demand</i> against Walter Chappas, D & M Energy Associates, LLC, Environmental Services, Justin Maese, Keith Tate ( Filing Fee – Online Payment), filed by Paul Wilkinson. (Attachments: # <u>1</u> Civil Cover Sheet Civil Case Cover Sheet)(Gordon, Paul) (Entered: 08/03/2020)
08/03/2020	<u>2</u>	Filing fee received online: \$ 400.00, receipt number ANMDC-7240023 (bap) <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (Entered: 08/04/2020)
08/04/2020	<u>1</u>	United States Magistrate Judge Jerry H. Ritter and United States Magistrate Judge Kevin R. Sweazea assigned. (arp) (Entered: 08/04/2020)
08/04/2020	<u>3</u>	PLEASE TAKE NOTICE that this case has been randomly assigned to United States Magistrate Judge Jerry H. Ritter to conduct dispositive proceedings in this matter, including motions and trial. Appeal from a judgment entered by a Magistrate Judge will be to the United States Court of Appeals for the Tenth Circuit. <b>It is the responsibility of the case filer to serve a copy of this Notice upon all parties with the summons and complaint.</b> <i>Consent is strictly voluntary, and a party is free to withhold consent without adverse consequences. Should a party choose to consent, notice should be made no later than 21 days after entry of the Order setting the Rule 16 Initial Scheduling Conference.</i> For e-filers, visit our Web site at <a href="http://www.nmd.uscourts.gov">www.nmd.uscourts.gov</a> for more information and instructions. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (arp) (Entered: 08/04/2020)
08/04/2020	<u>1</u>	Summons Issued as to All Defendants. (arp) (Entered: 08/04/2020)
08/15/2020	<u>4</u>	SUMMONS Returned Executed by Jonathan Wilkinson. Justin Maese served on 8/12/2020, answer due 9/2/2020. (Gordon, Paul) (Entered: 08/15/2020)
08/15/2020	<u>5</u>	SUMMONS Returned Executed by Jonathan Wilkinson. D & M Energy Associates, LLC served on 8/11/2020, answer due 9/1/2020. (Gordon, Paul) (Entered: 08/15/2020)

08/31/2020	<u>6</u>	NOTICE of Appearance by Michael Dickman on behalf of Justin Maese (Dickman, Michael) (Entered: 08/31/2020)
08/31/2020	<u>7</u>	NOTICE by Justin Maese ( <i>Agreed–Upon Extension of Time to File Answer or Motion Under Rule 12(b)</i> ) (Dickman, Michael) (Entered: 08/31/2020)
09/18/2020	<u>8</u>	ANSWER to <u>1</u> Complaint, by Justin Maese. Related document: <u>1</u> Complaint, filed by Jonathan Wilkinson.(Dickman, Michael) (Entered: 09/18/2020)
10/13/2020	<u>10</u>	Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity</i> by Justin Maese. (Attachments: # <u>1</u> Affidavit) (Dickman, Michael) (Main Document 10 replaced on 5/9/2022) (am). (Attachment 1 replaced on 5/9/2022) (am). (Entered: 10/13/2020)
10/13/2020	<u>11</u>	NOTICE OF CONSENT SUBMISSION DEADLINE: Pursuant to Fed. R. Civ. P. 73(b)(2), the parties are reminded that a magistrate judge was assigned as the trial judge in this matter under 28 U.S.C. 636(c). The parties are advised that the Clerk will reassign this matter to a district judge as the trial judge no later than <b>10 days</b> from the entry of this notice unless consents from all parties have been filed. The parties are free to withhold consent. <i>If you have already entered your consent, you need not resubmit.</i> (mlt) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/13/2020)
10/24/2020	<u>12</u>	AFFIDAVIT of Service for Summons and Complaint served on Walter Chappas on 08/25/2020, filed by Jonathan Wilkinson. (Gordon, Paul) (Entered: 10/24/2020)
10/24/2020	<u>13</u>	MOTION to Extend (other) <i>Complete Service on Defendants Keith Tate and Environmental Services</i> by Jonathan Wilkinson. (Gordon, Paul) (Entered: 10/24/2020)
10/26/2020	<u>14</u>	NOTICE by Jonathan Wilkinson re <u>10</u> Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity Agreed–Upon Extension of time to respond</i> (Gordon, Paul) (Entered: 10/26/2020)
10/27/2020	<u>15</u>	PLEASE TAKE NOTICE that this case has been reassigned to District Judge Martha Vazquez as the trial judge.  Under D.N.M.LR–Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.  <b><i>Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document.</i></b> Kindly reflect this change in your filings.  Magistrate Judge Jerry H. Ritter no longer assigned to this case. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (dr) (Entered: 10/27/2020)
10/27/2020	<u>16</u>	ORDER by Magistrate Judge Kevin R. Sweazea granting <u>13</u> Motion to Extend Time to Complete Service on Defendants Tate and Environmental Services to December 31, 2020. (atc) (Entered: 10/27/2020)
10/29/2020	<u>17</u>	NOTICE REGARDING DOCUMENT ENTRIES: Because this case has been reassigned to a district judge, please be advised that any documents filed by the parties under Rule 73(b) have been permanently removed from the docket. Document(s) removed: No. 9. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (bl) (Entered: 10/29/2020)
10/30/2020	<u>18</u>	NOTICE of Appearance by Ronald J. Childress on behalf of Walter Chappas (Childress, Ronald) (Entered: 10/30/2020)
10/30/2020	<u>19</u>	

		ANSWER to <u>1</u> Complaint, by Walter Chappas. Related document: <u>1</u> Complaint, filed by Jonathan Wilkinson.(Childress, Ronald) (Entered: 10/30/2020)
10/30/2020	<u>20</u>	DEMAND for Trial by Jury by Walter Chappas (Childress, Ronald) (Entered: 10/30/2020)
11/20/2020	<u>21</u>	NOTICE by Jonathan Wilkinson re <u>10</u> Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity Agreed–Upon Second Extension of Time to File Response</i> (Gordon, Paul) (Entered: 11/20/2020)
12/16/2020	<u>23</u>	NOTICE by Justin Maese re <u>10</u> Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity (Agreed–Upon Extension of Time for Filing Reply Brief)</i> (Dickman, Michael) (Entered: 12/16/2020)
12/29/2020	<u>24</u>	REPLY to Response to Motion re <u>10</u> Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity</i> filed by Justin Maese. (Dickman, Michael) (Entered: 12/29/2020)
12/29/2020	<u>25</u>	NOTICE of Briefing Complete by Justin Maese re <u>10</u> Opposed MOTION for Summary Judgment <i>Based on Qualified Immunity</i> filed by Justin Maese (Dickman, Michael) (Entered: 12/29/2020)
12/29/2020	<u>26</u>	Opposed MOTION to Strike <i>Parts of Affidavit of Proffered Expert Witness</i> by Justin Maese. (Dickman, Michael) (Entered: 12/29/2020)
12/29/2020	<u>27</u>	Opposed MOTION to Stay <i>Discovery Based on Qualified Immunity</i> by Justin Maese. (Dickman, Michael) (Entered: 12/29/2020)
12/30/2020	<u>28</u>	NOTICE by Jonathan Wilkinson re <u>16</u> Order on Motion to Extend (other) <i>Complete Service on Defendants Keith Tate and Environmental Services</i> (Gordon, Paul) (Entered: 12/30/2020)
12/30/2020	<u>29</u>	NOTICE by Jonathan Wilkinson <i>Agreed–Upon Limited Discovery</i> (Gordon, Paul) (Entered: 12/30/2020)
01/09/2021	<u>30</u>	RESPONSE in Opposition re <u>26</u> Opposed MOTION to Strike <i>Parts of Affidavit of Proffered Expert Witness</i> filed by Jonathan Wilkinson. (Attachments: # <u>1</u> Exhibit Corona v. Aguilar) (Gordon, Paul) (Entered: 01/09/2021)
01/12/2021	<u>31</u>	RESPONSE in Opposition re <u>27</u> Opposed MOTION to Stay <i>Discovery Based on Qualified Immunity</i> filed by Jonathan Wilkinson. (Gordon, Paul) (Entered: 01/12/2021)
01/13/2021	<u>32</u>	REPLY to Response to Motion re <u>26</u> Opposed MOTION to Strike <i>Parts of Affidavit of Proffered Expert Witness</i> filed by Justin Maese. (Dickman, Michael) (Entered: 01/13/2021)
01/13/2021	<u>33</u>	NOTICE of Briefing Complete by Justin Maese re <u>26</u> Opposed MOTION to Strike <i>Parts of Affidavit of Proffered Expert Witness</i> filed by Justin Maese (Dickman, Michael) (Entered: 01/13/2021)
01/13/2021	<u>34</u>	REPLY to Response to Motion re <u>27</u> Opposed MOTION to Stay <i>Discovery Based on Qualified Immunity</i> filed by Justin Maese. (Dickman, Michael) (Entered: 01/13/2021)
01/13/2021	<u>35</u>	NOTICE of Briefing Complete by Justin Maese re <u>27</u> Opposed MOTION to Stay <i>Discovery Based on Qualified Immunity</i> filed by Justin Maese (Dickman, Michael) (Entered: 01/13/2021)
01/26/2021	<u>36</u>	ORDER by Magistrate Judge Kevin R. Sweazea granting <u>27</u> Motion to Stay Discovery. (atc) (Entered: 01/26/2021)
02/04/2021	<u>37</u>	CERTIFICATE OF SERVICE by Walter Chappas (Childress, Ronald) (Entered: 02/04/2021)
02/04/2021	<u>38</u>	AMENDED CERTIFICATE OF SERVICE by Walter Chappas (Childress, Ronald) Modified text on 2/5/2021 add amended (gr). (Entered: 02/04/2021)

03/26/2021	<u>39</u>	NOTICE by Jonathan Wilkinson <i>Agreed–Upon Third Extension to File Returns of Service</i> (Gordon, Paul) (Entered: 03/26/2021)
05/29/2021	<u>40</u>	NOTICE by Jonathan Wilkinson re <u>39</u> Notice (Other) <i>Agreed–Upon Fourth Extension of Time</i> (Gordon, Paul) (Entered: 05/29/2021)
06/04/2021	<u>41</u>	AFFIDAVIT of Service for Summons and Complaint <i>through agent Fred Rake</i> served on D & M Energy Associates, LLC on May 31, 2021, filed by Jonathan Wilkinson. (Gordon, Paul) (Entered: 06/04/2021)
06/10/2021	<u>42</u>	NOTICE of Appearance by Josh A. Harris on behalf of D & M Energy Associates, LLC (Harris, Josh) (Entered: 06/10/2021)
06/18/2021	<u>43</u>	MOTION for Leave to File <i>Limited Entry of Appearance</i> by D & M Energy Associates, LLC. (Harris, Josh) (Entered: 06/18/2021)
06/23/2021	<u>44</u>	ORDER by Magistrate Judge Kevin R. Sweazea granting <u>43</u> Unopposed Motion for Leave to File Limited Entry of Appearance. (atc) (Entered: 06/23/2021)
06/25/2021	<u>45</u>	NOTICE of Appearance by Josh A. Harris on behalf of D & M Energy Associates, LLC (Harris, Josh) (Entered: 06/25/2021)
08/30/2021	<u>46</u>	MOTION to Extend (other) <i>Deadline to Complete Service of Process</i> by Jonathan Wilkinson. (Attachments: # <u>1</u> Exhibit Written Deposition Questions, # <u>2</u> Exhibit Sheriff's Report of Non–Service, # <u>3</u> Proposed Order) (Gordon, Paul) (Entered: 08/30/2021)
09/09/2021	<u>47</u>	MOTION to Dismiss for Lack of Jurisdiction by D & M Energy Associates, LLC. (Attachments: # <u>1</u> Exhibit A) (Harris, Josh) (Entered: 09/09/2021)
09/23/2021	<u>48</u>	NOTICE by Jonathan Wilkinson re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction of <i>Agreed–Upon Extension of Time to Respond</i> (Gordon, Paul) (Entered: 09/23/2021)
10/01/2021	<u>49</u>	ORDER by Magistrate Judge Kevin R. Sweazea granting in part and denying in part <u>46</u> Motion to Extend Time to Complete Service. Plaintiff's deadline to complete service on Defendants Keith Tate and Environmental Services is extended until 30 days after Defendant Maese's Motion for Summary Judgment Based on Qualified Immunity is ruled on, or until 30 days after any appeal of that decision is resolved. (atc) (Entered: 10/01/2021)
10/07/2021	<u>50</u>	MOTION for Discovery <i>on Personal Jurisdiction</i> by Jonathan Wilkinson. (Attachments: # <u>1</u> Exhibit DOT Certificate, # <u>2</u> Exhibit Towing Report, # <u>3</u> Exhibit KHP Report, # <u>4</u> Exhibit Affidavit of J Wilkinson, # <u>5</u> Proposed Order) (Gordon, Paul) (Entered: 10/07/2021)
10/07/2021	<u>51</u>	MOTION to Extend (other) <i>Time Pending Jurisdictional Discovery</i> by Jonathan Wilkinson. (Attachments: # <u>1</u> Proposed Order) (Gordon, Paul) (Entered: 10/07/2021)
10/21/2021	<u>52</u>	RESPONSE to Motion re <u>50</u> MOTION for Discovery <i>on Personal Jurisdiction</i> filed by D & M Energy Associates, LLC. (Attachments: # <u>1</u> Exhibit A) (Harris, Josh) (Entered: 10/21/2021)
10/27/2021	<u>53</u>	REPLY to Response to Motion re <u>50</u> MOTION for Discovery <i>on Personal Jurisdiction</i> filed by Jonathan Wilkinson. (Gordon, Paul) (Entered: 10/27/2021)
10/28/2021	<u>54</u>	PLEASE TAKE NOTICE that this case has been reassigned to District Judge Margaret I. Strickland as the trial judge.  Under D.N.M.LR–Civ. 10.1, the first page of each document must have the case file number and initials of the assigned judges.

**Accordingly, further documents filed in this matter must bear the case number and the judges' initials shown in the case caption and the NEF for this document.** Kindly reflect this change in your filings.

District Judge Martha Vazquez no longer assigned to this case.

[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (gr) (Entered: 10/28/2021)

11/08/2021	<u>55</u>	ORDER by Magistrate Judge Kevin R. Sweazea granting in part <u>50</u> Motion for Jurisdictional Discovery, and granting <u>51</u> Motion to Extend. (atc) (Entered: 11/08/2021)
11/19/2021	<u>56</u>	ORDER by District Judge Margaret I. Strickland granting <u>10</u> Motion for Summary Judgment; finding as moot <u>26</u> Motion to Strike Parts of Affidavit of Proffered Expert Witness. (tms) (Entered: 11/19/2021)
12/16/2021	<u>57</u>	NOTICE of Voluntary Dismissal as to Environmental Services and Keith Tate by Jonathan Wilkinson (Gordon, Paul) (Entered: 12/16/2021)
12/17/2021	<u>58</u>	STIPULATED FINAL JUDGMENT as to Defendant Justin Maese by District Judge Margaret I. Strickland. (tms) (Entered: 12/17/2021)
12/21/2021	<u>59</u>	RESPONSE to Motion re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction filed by Jonathan Wilkinson. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit) (Gordon, Paul) (Entered: 12/21/2021)
12/29/2021	<u>60</u>	MOTION to Dismiss Party <i>Defendant Walter Chappas</i> by Walter Chappas. (Childress, Ronald) (Entered: 12/29/2021)
01/04/2022	<u>61</u>	NOTICE by D & M Energy Associates, LLC re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction <i>Extension of Time to File its Reply in Support of its Motion to Dismiss for Lack of Personal Jurisdiction</i> (Harris, Josh) (Entered: 01/04/2022)
01/12/2022	<u>62</u>	RESPONSE in Opposition re <u>60</u> MOTION to Dismiss Party <i>Defendant Walter Chappas</i> filed by D & M Energy Associates, LLC. (Harris, Josh) (Entered: 01/12/2022)
01/12/2022	<u>63</u>	MOTION Motion in Opposition to Plaintiff and Defendant Chappas' Joint Motion for an Order of Dismissal re <u>60</u> MOTION to Dismiss Party <i>Defendant Walter Chappas</i> by D & M Energy Associates, LLC. (Attachments: # <u>1</u> Exhibit A) (Harris, Josh) (Entered: 01/12/2022)
01/13/2022	<u>64</u>	ORDER FINDING GOOD CAUSE TO DELAY ENTRY OF A SCHEDULING ORDER: by Magistrate Judge Kevin R. Sweazea. Considering the pending motions seeking dispositive relief, Docs. <u>47</u> and <u>60</u> , the Court hereby finds good cause under Fed. R. Civ. P. 16 to delay holding a scheduling conference and entering a scheduling order. The Court will set the case for scheduling once the dispositive motions are resolved. [THIS IS A TEXT-ONLY ENTRY. NO DOCUMENTS ARE ATTACHED.] (atc) (Entered: 01/13/2022)
01/17/2022	<u>65</u>	NOTICE by D & M Energy Associates, LLC re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction <i>Second Notice of Extension of Time to File its Reply in Support of its Motion to Dismiss for Lack of Personal Jurisdiction</i> (Harris, Josh) (Entered: 01/17/2022)
01/24/2022	<u>66</u>	REPLY to Response to Motion re <u>60</u> MOTION to Dismiss Party <i>Defendant Walter Chappas</i> filed by Walter Chappas. (Childress, Ronald) (Entered: 01/24/2022)
01/24/2022	<u>67</u>	NOTICE of Briefing Complete by Walter Chappas re <u>60</u> MOTION to Dismiss Party <i>Defendant Walter Chappas</i> filed by Walter Chappas (Childress, Ronald) (Entered: 01/24/2022)
01/24/2022	<u>68</u>	MOTION to Strike <i>Motion in Opposition to Plaintiff and Defendant Chappas' Joint Motion for an Order of Dismissal of Claims Against Defendant Chappas and Memorandum in Support</i> by Walter

		Chappas. (Childress, Ronald) (Entered: 01/24/2022)
01/24/2022	<u>69</u>	REPLY to Response to Motion re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction filed by D & M Energy Associates, LLC. (Harris, Josh) (Entered: 01/24/2022)
01/24/2022	<u>70</u>	NOTICE of Briefing Complete by D & M Energy Associates, LLC re <u>47</u> MOTION to Dismiss for Lack of Jurisdiction filed by D & M Energy Associates, LLC (Harris, Josh) (Entered: 01/24/2022)
01/27/2022	<u>71</u>	ORDER by District Judge Margaret I. Strickland granting <u>60</u> Joint Motion for Dismissal Without Prejudice as to the Claims of the Plaintiff, Jonathan Wilkinson, Against Defendant, Walter Chappas; finding as moot <u>63</u> Motion in Opposition to the Joint Motion for Dismissal; finding as moot <u>68</u> Motion to Strike Defendant D&M Energy's Motion in Opposition. All claims against Defendant Walter Chappas are hereby DISMISSED WITHOUT PREJUDICE. (tms) (Entered: 01/27/2022)
02/10/2022	<u>72</u>	MOTION for Reconsideration <i>Dismissal of Walter Chappas without Prejudice</i> by Walter Chappas. (Childress, Ronald) (Entered: 02/10/2022)
02/10/2022	<u>73</u>	ORDER by District Judge Margaret I. Strickland granting <u>72</u> Motion for Reconsideration. On January 27, 2022, the Court entered an Order granting <u>60</u> MOTION to Dismiss Party Defendant Walter Chappas. The Court mistakenly characterized the Motion as one for dismissal without prejudice. Because the parties in fact moved for dismissal <i>with</i> prejudice, and because the reasoning of the Court's Order supports either result, the Court hereby AMENDS its prior Order to reflect the DISMISSAL WITH PREJUDICE of Defendant Walter Chappas. <a href="#">[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.]</a> (tms) (Entered: 02/10/2022)
05/03/2022	<u>74</u>	ORDER by District Judge Margaret I. Strickland granting in part <u>47</u> Motion to Dismiss for Lack of Jurisdiction. The action shall be TRANSFERRED pursuant to 28 U.S.C. § 1631 to the United States District Court for the Southern District of Texas. (tms) (Entered: 05/03/2022)